

Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**FRANK MUCERINO III and
CREEKSIDE TERRACE LLC,**

Plaintiffs

v.

CHARLES JOSHUA DALE MARTIN,

Defendant

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Case No. 3:21-cv-00284

DECLARATION OF CHARLES JOSHUA DALE MARTIN

1. My name is Charles Joshua Dale Martin , I have personal knowledge of the facts affirmed in this Declaration, I am competent to testify regarding them, and I swear under penalty of perjury that they are true.

2. I purchased a home in the Camp Ravine Estates subdivision located in the Town of Burns, Dickson County, Tennessee on May 29, 2020. I sold my home on June 23, 2021.

3. On March 22, 2021, I posted the following on the Residents of Camp Ravine Estates & Cottages at Sycamore Ridge Facebook page:

Hey neighbors, I'm sure all of you are aware that there are many unresolved issues with our neighborhood that the developer is responsible for, but we know he has no plans to fix them and is now reportedly moving away.

It seems to me the advice of the city attorney to lawyer up will be a waste of time and money especially if Frank the developer claims bankruptcy.

In my opinion, the best course of action would be to schedule a time on the City Hall agenda to have our case heard with all of the problems the engineer has noted that Karla Cobbs has posted here previously. This will require everyone to participate, attend, and compile evidence of the issues caused by the developer.

Please let me know your thoughts.

A true and correct copy of my March 22, 2021 post is attached to this Declaration as **Exhibit A**.

4. I am a member of a private Facebook group named “Residents of Camp Ravine Estates & Cottages at Sycamore Ridge” which, as of March 22, 2021, had 55 members consisting of Camp Ravine and Cottages of Sycamore Ridge home owners.

5. Members of the “Residents of Camp Ravine Estates & Cottages at Sycamore Ridge” used the private Facebook group to discuss issues related to Camp Ravine.

6. While living at Camp Ravine, I learned of and observed many unresolved issues related to my property, my neighbors’ homes, and the Camp Ravine Estates subdivision. Some of those issues include:

- a. Neglected/deteriorating drainage sites;
- b. No sidewalks or curbs in the neighborhood even though they are shown on the plans; and
- c. High erosion potential with no mitigation plans;

7. The “unresolved issues” referenced in my March 22, 2021 post referred to the issues listed in the previous paragraph.

8. The “unresolved issues” referenced in my March 22, 2021 post also included “problems the engineer has noted that Karla Cobbs has posted here previously.”

9. On January 1, 2021, Karla Cobbs, a member of the private Facebook group, posted a chart listing numerous unresolved construction defects and deficiencies at Camp Ravine. Karla Cobbs advised that the chart was created by the Town of Burns’ engineer. I received a copy of the chart posted by Karla Cobbs prior to my March 22, 2021 post.

10. I copied Karla Cobbs’ January 1, 2021 post and the chart, true and correct copies

of which are attached to this Declaration as **Exhibit B**.

11. The “unresolved issues” referenced in my post also included the issues identified in the chart posted by Karla Cobbs on January 1, 2021.

12. I posted the statement quoted above in response to suggestions that homeowners in Camp Ravine Estates sue the developers of Camp Ravine Estates for numerous construction defects and deficiencies.

13. Prior to March 22, 2021, I was advised that Camp Ravine homeowners spoke with Tim V. Potter, attorney for the Town of Burns.

14. Prior to March 22, 2021, I was advised that Mr. Potter suggested that Camp Ravine homeowners should obtain an attorney and sue Plaintiffs to force Plaintiffs to correct the unresolved issues referenced in my post.

15. On December 30, 2020, Karla Cobbs posted the following in the private Facebook group:

Partial update from attorney [Mr. Potter]:

The attorneys office is currently working with city engineers in order to determine the next course of action. There was no compliance by the developer. Mr. Potter advised a decision should be made in the next couple of weeks.

I request clarification yesterday regarding understand developer shut down if not comply.

Attorney also mentioned he encourages we the homeowners to seek our own legal counsel. Didn't say why and is the other item requested clarification.

I copied Karla Cobb's December 30, 2020 post, a true and correct copy of which is attached to this Declaration as **Exhibit C**.

16. On March 21, 2021, Karla Cobbs posted the following in the private Facebook

group:

Requested update from city attorney re meeting with developer. Heard back Fri, he advised they have no information at this time. Everything is still being reviewed by city engineers.

He also advised, as previously suggested, homeowners should seek independent legal advice. The firm does not represent individual homeowners in the subdivision.

I replied thanking him & to please advise what next and to when next public meetings regarding this. Thanked him for advise and noted some of the residents concerns are same as city's i.e. drainage issues, grading ignoring nature's flow, final road grading, what happening to road to last phase and status of that phase, status of sidewalks and if planning & zoning approved to omit, then copy of documentation.

Some may have seen builder's local home is under contract, possible moving out of state.

As for legally moving forward, is way out of my experience and honestly budget. Others that can assist, please.

I copied Karla Cobb's March 21, 2021 post, a true and correct copy of which is attached to this Declaration as **Exhibit D**.

17. I understood Mr. Potter's recommendation that Camp Ravine homeowners retain an attorney to mean that Camp Ravine homeowners should sue the Plaintiffs.

18. My post on March 22, 2021 was in direct response to the suggestion conveyed by Karla Cobbs and suggestions by other members of the private Facebook group, including Mike Brooks, that Camp Ravine homeowners sue the developer of Camp Ravine Estates. I copied Mr. Brooks' comment, a true and correct copy of which is attached as **Exhibit E**.

19. On March 22, 2021, I sincerely believed that any legal action against the developer would be a waste of time because the issues at Camp Ravine needed immediate attention.

20. On March 22, 2021, I sincerely believed that any legal action against Plaintiff Frank

Mucerino would be a waste of time and money if he filed bankruptcy. I was concerned that Mr. Mucerino would file bankruptcy because Karla Cobbs reported on March 21, 2021 that Mr. Mucerino's home was under contract and that he may be moving out of state while there were many unresolved issues at Camp Ravine. My concern that Mr. Mucerino might file bankruptcy also arose from a comment made by Mike Brooks in the private Facebook group that "[a]n attorney should be used to file a civil suit. If the developer files for bankruptcy it least the neighborhood would be in line for financial restitution if there was any financial judgment." A true and correct copy Mr. Brooks' comment is attached as **Exhibit E**.

21. On March 22, 2021, I sincerely believed that the best and most efficient course of action to get Plaintiffs to fix the unresolved issues referenced in my post was to bring these issues before the Town of Burns Planning Commission or other appropriate governmental agency.

22. On March 22, 2021, I sincerely believed that Plaintiffs were responsible for the unresolved issues referenced in my post because they are the developer/builder of Camp Ravine Estates.

23. On March 22, 2021, I sincerely believed that Plaintiffs had no plans to fix the unresolved issues referenced in my post based on my knowledge of the Town of Burns Municipal Planning Commission's experience and the experiences of other Camp Ravine homeowners.

24. Before March 22, 2021, I learned that Mr. Mucerino sought a variance from the Town of Burns' subdivision regulations requiring that sidewalks be installed at Camp Ravine, that the Town of Burns Municipal Planning Commission denied Mr. Mucerino's request for a variance, and that as of March 22, 2021, Plaintiffs had not installed required sidewalks at Camp Ravine. A copy of the minutes dated May 22, 2017 which I received from the Town of Burns Municipal Planning Commission is attached as **Exhibit F**.

25. Before March 22, 2021, I learned that on November 4, 2020, the Town of Burns Municipal Planning Commission held a meeting to discuss unresolved issues at the Camp Ravine Estates and that the Town of Burns' engineer spoke at that meeting.

26. Before March 22, 2021, I knew of the findings made by the Town of Burns' engineer, as set out in the chart posted by Karla Cobbs, I knew that the Town of Burns was attempting to hold Plaintiffs responsible for the unresolved deficiencies at Camp Ravine, and I knew that Plaintiffs refused to correct many of those deficiencies.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 11th day of July, 2021, in Bon Aqua, Tennessee.



Charles Joshua Dale Martin

EXHIBIT A

10:16



Like Reply



Write an answer...



Josh Martin



Visual Storyteller · Mar 22 · 🌐

Hey neighbors, I'm sure all of you are aware that there are many unresolved issues with our neighborhood that the developer is responsible for, but we know he has no plans to fix them and is now reportedly moving away.

It seems to me the advice of the city attorney to lawyer up will be a waste of time and money especially if Frank the developer claims bankruptcy.

In my opinion, the best course of action would be to schedule a time on the city hall agenda to have our case heard with all of the problems the engineer has noted that [Karla Cobbs](#) has posted here previously. This will require everyone to participate, attend, and compile evidence of the issues caused by the developer.

Please let me know your thoughts.



4

11 Comments Seen by 47



EXHIBIT B



Karla's Post

**Linda Hall**

Thanks for following up on this, Karla.

26w Like Reply

1

**Karla Cobbs**

Here are the City Engineer's initial concerns that were presented at meeting. FYI [Josh Martin](#)



26w Like Reply

**Josh Martin**

[Karla Cobbs](#) thank you so much for the information! Do you have a more clear version of the photo? I'm unable to read it.

26w Like Reply



Write a comment...



Number	Issue
1	Lack of EPSC across entire site - Examples are down silt fence and over an inch of mud on the roadway
2	No Intersection traffic control
3	Site drainage for lots 47, 48, 49 - Lot 47 grading in back yard is a major concern
4	Large concern with lots 33, 34, and 35
5	Hydrants - some are 3+ feet out of the ground and others the connections are nearly buried
6	Need as-built survey to check site vs design plans - Likely many more issues
7	No sidewalk anywhere in the development (sidewalk variance <u>denied</u> 5/22/17 Planning Commission)
8	Lot 35 requesting CO with closing date of 11/4/20 - This is the lot with the culvert in the front yard and severe drainage concerns. (outfall with 35 diverted acres and bottom of hill)
9	Appears that the stream buffer has been encroached upon and grading work is being done within the stream channel
10	Rip rap fills ditches instead of lining ditches - causes stormwater diversion around ditch
11	Lack of proper rip-rap at headwalls
12	Phases 4&5 show 6' shoulder
13	Phase 6 shows curb and gutter with inlets. No curb and gutter or inlets present
14	Phase 6 plans do not have sidewalk but Final Plat does - No sidewalk installed
15	Phase 6 does not have a TDEC permit on file
16	Phases 4 & 5 have active TDEC permit but no action after last NOV from June 2018
17	Could not find a letter of credit for Phase 5
18	Frank Mucerino (Creekside LLC) still showing up as permittee on TDEC
19	Sewer crossing is a stream violation (behind lot 35)
20	Need drainage reports from all phases. With pipe sizing calculations and drainage area calculations
21	Observed grading appears to exceed 10 acres and therefore require sediment basins
22	No site stormwater detention - Post project stormwater flows likely higher than pre-project
23	Lot grading not accounting for development lots. Grading shown in plans only is grading for roadway. Where did contractor get grading details for building lots? How does this affect the site?

EXHIBIT C



Karla's Post

**Scott Street**

Any updates on this?

26w Like Reply

2

**Karla Cobbs**

Partial update from attorney:

The attorneys office is currently working with city engineers in order to determine the next course of action. There was no compliance by the developer. Mr Potter advised a decision should be made in the next couple of weeks.

I requested clarification yesterday regarding understand developer shut down if not comply.

Attorney also mentioned he encourages we the homeowners to seek our own legal counsel. Didn't say why and is the other item requested clarification.

Will post once hear back.

26w Like Reply

1



Write a comment...



EXHIBIT D



Karla's Post

**Residents of Camp Ravine Estates & Cottages at Sycamore Ridge**

Karla Cobbs · Dec 15, 2020 · 📷

***** UPDATE *** 21Mar *****

Requested update from city attorney re meeting with developer. Heard back Fri, he advised they have no information at this time. Everything is still being reviewed by city engineers.

He also advised, as previously suggested, homeowners should seek independent legal advice. Their firm does not represent the individual homeowners in the subdivision.

I replied thanking him & to please advise what next and to when next public meetings regarding this. Thanked him for advise and noted some of the residents biggest concerns are same as city's
I.e. drainage issues, grading ignoring nature's flow, final road grading, what happening to road to last phase and status of that phase, status of sidewalks and if planning & zoning approved to omit, then copy of documentation.



Write a comment...





Some may have seen builder's local home is under contract, possibly moving out of state.

As for legally moving forward, is way out of my experience and honestly budget. Others that can assist, please. City attorney is:

Timothy V. Potter, Esq.
Reynolds, Potter, Ragan & Vandivort, PLC
210 East College Street
Dickson, Tennessee 37055
(615) 446-2221
tpotter@rprvlaw.com

Thank you

*** UPDATE *** 13Feb ***

Heard from city attorney today.

There was to be a NON public meeting 17Feb with developer & city engineer at city attorney's office. Developer cancelled and is tentatively rescheduled for later in week or the following.

Requested explanation why private & previous public or will there be a public meeting afterwards. Will advise once an answer.



Write a comment...



EXHIBIT E



Karla's Post

**Mike Brooks**

Thank you for what you are doing. I just don't trust the developer or the city. An attorney should be used to file a civil suit. If the developer files for bankruptcy it least the neighborhood would be in line for financial restitution if there was any financial judgment.

27w

Like

Reply

1

**Karla Cobbs**

if anyone in the group is familiar with how to proceed legally, would be great. Far from my area and then there is the \$🙄

27w

Like

Reply



Write a reply...

**Josh Martin**

As a newby here can someone please explain what's going on with the developer and city in layman's terms?



Write a comment...



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Watch



Marketplace



Gaming



Notifications



Menu

EXHIBIT F

Town of Burns Planning Commission
Minutes of Meeting
May 22, 2017

The members of the Town of Burns Planning Commission met in a regular session at city hall in Burns, Tennessee on this the 22nd day of May, 2017 at 6 pm.

The meeting was called to order by Chairman Greg Hogin with the following members present:

Valton Potter, member
Debra Cox, member
Dalton Hall, Secretary

Absent:

Bill Joyce, member

Others in attendance:

Jason Pilkinton (representative for Richard Hinson/Suggs Excavation rezoning request)
Jeffrey Suggs, Suggs Excavating and Kim Leady

Greg Hogin moved to approve the May 22, 2017 agenda, this motion was seconded by Valton Potter, all in favor.

The March 27, 2017 meeting minutes were presented. Greg Hogin moved and Debra Cox seconded to approve the minutes as presented, all in favor.

NEW BUSINESS:

REZONING REQUEST FROM RICHARD HINSON/SUGGS EXCAVATION

The applicant Mr. Jeffery Suggs requests a rezoning of two parcels from R-3 (High-Density Residential) to CC (Commercial Corridor). The properties are identified as Tax Map 119 Parcel 17.01 (consisting of 3 ac) and 17.05 (consisting of 1.7 ac). Both parcels are vacant.

Staff comments from Staff Planner Bryan Collins include:

Clearance of various evergreen overgrowth is recommended to be minimal due to buffering between commercial and residential areas.

The convenience center located on Map 119 Parcel 17.03 is also recommended to be rezoned from R-3 to CC, as this center is not allowed in R-3 district.

Site Plan for Design review will need to be submitted for review by Planning Commission.

It is recommended to combine both parcels into one larger to comply with setback requirements.

It is also recommended during the site plan review that the access be situated on more northern end of Maple Grove Street to minimize the adverse effects on the residents living on Maple Grove Street.

Greg Hogin moved to recommend rezoning Map 119 Parcels 17.01, 17.03, and 17.05 from R-3 (High-Density Residential) to CC (Commercial Corridor), this motion was seconded by Valton Potter, all in favor.

OLD BUSINESS:
CAMP RAVINE SUBDIVISION ROAD VARIANCE:

Mr. Frank Mucerino is requesting a variance from the Town of Burns Subdivision Regulations Road Design. The variance request for consideration to the road design for Camp Ravine Estates. Southern Consulting has prepared the variances as follows:

1. K – Value of 15 mph verses 30 mph
2. 2% grade @ 30 ft on all interior intersections of the development verses 2% @ 60 ft
3. No sidewalks due to the ditch design & future possible liability for the city

Valton Potter moved to approve the K – Value of 15 mph verses 30 mph, this motion was seconded by Debra Cox, all in favor.

Valton Potter moved and Debra Cox seconded to accept the 2% grade @ 30 feet on all intersections of development verses 2% @ 60 feet, all in favor.

Valton Potter moved to deny the no sidewalks due to the ditch design, Debra Cox seconded, all in favor.

There being no further business to come before the planning commission, Greg Hogin moved and Valton Potter seconded to adjourn the meeting, all in favor.

Adopted this the 26th day of June, 2017.

Attest:



Dalton Hall, SECRETARY



Greg Hogin, CHAIRMAN